

411.9 Military service exceptions.

1. A member who is absent while serving in the armed services of the United States or its allies and is discharged or separated from the armed services under honorable conditions shall have the period or periods of absence while serving in the armed services, not in excess of four years unless any period in excess of four years is at the request and for the convenience of the federal government, included as part of the member's period of service in the department. The member shall not continue the contributions required of the member under section 411.8 during the period of military service, if the member, within one year after the member has been discharged or separated under honorable conditions from military service, returns and resumes duties in the department, and if the member is declared physically capable of resuming duties upon examination by the medical board. A period of absence may exceed four years at the request and for the convenience of the federal government.

2. In the case of a member's death occurring on or after January 1, 2007, if the member dies while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the survivors of the member are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided by the system as if the member had resumed membership service and had died as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place.

3. For years beginning after December 31, 2008, if a member who is absent while serving in the armed services of the United States is receiving a differential wage payment, as defined in section 3401(h)(2) of the Internal Revenue Code, from a participating city, all of the following shall apply:

a. The member is treated as an employee of the employer making the payment and as an active member of the system.

b. The differential wage payment is treated as earnable compensation of the member.

c. The system is not treated as failing to meet the requirements of any provision described in section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

4. Notwithstanding any provisions of this chapter to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the federal Internal Revenue Code.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §411.9]

86 Acts, ch 1243, §29; 88 Acts, ch 1242, §60; 98 Acts, ch 1183, §93; 2010 Acts, ch 1167, §50, 51, 56, 57

[SP] 2010 amendment adding subsection 2 takes effect April 23, 2010, and applies retroactively to deaths occurring on or after January 1, 2007; 2010 Acts, ch 1167, § 56

[SP] 2010 amendment adding subsection 3 takes effect April 23, 2010, and applies retroactively to years beginning after December 31, 2008; 2010 Acts, ch 1167, § 57